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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|----------------------|------------------|
| 10/633,759 | 08/04/2003 | Theodore R. Flint | D4699-00059 (500-97) | 5329 |
| 8933 | 7590 | 01/13/2006 | EXAMINER | |
| DUANE MORRIS, LLP IP DEPARTMENT 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103-4196 | | | SELLERS, ROBERT E | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1712 | |

DATE MAILED: 01/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|----------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/633,759 | FLINT ET AL. | |
| | Examiner Robert Sellers | Art Unit 1712 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 27 December 2005.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1,2,5-11 and 14-17 is/are pending in the application.
 4a) Of the above claim(s) 9 is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1, 2, 5-8, 10, 11 and 14-17 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

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This application contains claim 9 drawn to an invention nonelected with traverse in the non-Final rejection mailed September 30, 2005. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, 5, 6, 8, 10, 11, 14, 15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Jorissen et al. Patent No. 5,548,026.

The rejection is maintained for the reasons of record set forth in the non-Final rejection mailed September 30, 2005. The arguments filed December 27, 2005 have been considered but are unpersuasive.

1. The claimed liquid epoxy resin having a molecular weight of from about 800-1000 includes a sorbitol polyglycidyl ether as denoted in claims 6 and 15. Jorissen et al. (col. 4, line 66 to col. 5, line 1; col. 11, Working Example 2 and col. 13, Working Examples 4A and 4B) discloses and exemplifies the preferred species of sorbitol polyglycidyl ether. Since the prior art and claimed sorbitol polyglycidyl ether is the same epoxy resin, the limits as a liquid and the molecular weight is inherently met.

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Claims 1, 2, 5, 6, 8, 10, 11, 14, 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent No. 1-249828 in view of Jorissen et al.

The basis for the rejection has been changed to 35 U.S.C. 103(a) since the language of claims 4 and 13 requiring the presence of talc, titanium dioxide and/or carbon black have been inserted into independent claims 1 and 10, respectively.

2. Jorissen et al. establishes use of titanium dioxide or carbon black as a pigment in an epoxy resin-polymercaptan formulation (col. 9, lines 56-57). It would have been obvious to employ the titanium dioxide and/or carbon black of Jorissen et al. as the pigment of Japanese '828 in order to color the putty.

Claims 1, 2, 5, 6, 8, 1, 11, 14, 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent No. 2-108533, Miyamoto Publication No. 2004/0006944, Japanese Patent No. 61-138232, Yamamoto Patent No. 6,770,957 and Japanese Patent No. 61-185526 in view of Jorissen et al.

Claims 7 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references hereinabove, and further in view of Japanese '533 and Miyamoto.

The rejections are maintained for the reasons of record set forth in the non-Final rejection mailed September 30, 2005. The arguments filed December 27, 2005 have been considered but are unpersuasive.

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3. As explained in previous paragraph 1, Jorissen et al. shows the claimed sorbitol polyglycidyl ether of claims 6 and 15 which conforms to the claimed requirement of a liquid and a molecular weight from about 800-1000. It would have been obvious to use the sorbitol polyglycidyl ether of Jorissen et al. as the epoxy resin of Japanese '533, '232 and '526, Miyamoto et al. and Yamamoto in order to "provide rapid cure, good adhesion, and impact resistance over time (Jorissen et al., col. 5, lines 6-11)."

The amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Sellers whose telephone number is (571) 272-1093. The examiner can normally be reached on Monday to Friday from 9:30 to 6:00. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

rs

1/6/2006



ROBERT E.L. SELLERS
PRIMARY EXAMINER